SERVED: December 27, 1993

NTSB Order No. EA-4051

UNITED STATES OF AMERICA NATIONAL TRANSPORTATION SAFETY BOARD WASHINGTON, D.C.

Adopted by the NATIONAL TRANSPORTATION SAFETY BOARD at its office in Washington, D.C. on the 14th day of December, 1993

JOHN H. GILFOIL,

Applicant,

v.

DAVID R. HINSON, Administrator, Federal Aviation Administration,

Respondent.

Docket 85-EAJA-SE-8536

OPINION AND ORDER

In our prior decision in this proceeding, NTSB Order EA-3982 (September 23, 1993), we authorized, in principle, respondent's recovery under the Equal Access to Justice Act¹ of attorney fees and expenses incurred in defending against the Administrator's order of revocation in this case. Although the Administrator did not object to any of the costs sought, we requested supplemental

¹5 U.S.C. 504 (EAJA).

briefing so that our decision could reflect our recent change to 49 C.F.R. 821.26, in which we increased the prior \$75/hour cap on attorney fees. Applicant has filed the supplemental pleading, and it contains the information we sought. The Administrator has stated that he has no objection to the supplemental application.

Applicant now seeks a total of \$20,349.19 in fees and related expenses. The amounts sought are explained in detail, and applicant has provided all the information our rules require; his submission is an excellent one. Applicant has included updated fees, at the new ceilings specified in § 821.26, as amended, and the calculations using the Consumer Price Index (CPI) formula have been properly done. We will award the sought amount.

ACCORDINGLY, IT IS ORDERED THAT:

- 1. Applicant's EAJA application, as supplemented, is granted in full; and
 - 2. The Administrator is to pay applicant \$20,349.19.

VOGT, Chairman, COUGHLIN, Vice Chairman, LAUBER, HAMMERSCHMIDT, and HALL, Members of the Board, concurred in the above opinion and order.

We note that, in Exhibit B, applicant's reference to \$140.30/hour is a mistake; it should read \$115.76/hour. The 140.30 figure is the CPI index for 1992, the figure properly used for 1993 until the yearly 1993 number is issued.